

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UBER TECHNOLOGIES, INC., *et al.*,
Defendants.

**DECLARATION OF MILES EHRlich
IN SUPPORT OF DEFENDANTS'
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL EXHIBITS IN SUPPORT
OF THEIR MOTION TO QUASH AND
MOTION FOR PROTECTIVE ORDER
REGARDING SUBPOENAS TO YOO
AND GONZALEZ**

2. I make this declaration in support of Defendants' Administrative Motion to File Under Seal Exhibits in Support of their Motion to Quash and Motion for Protective Order Regarding Subpoenas to Yoo and Gonzalez, filed on September 24, 2017, Docket No. 1781 ("Defendants' Administrative Motion"). The Administrative Motion seeks an order sealing the

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following documents based on Mr. Levandowski's designation of privilege:

Document	Portion to Be Filed Under Seal	Designating Party
Exhibit 1 to the Declaration of Arturo Gonzalez	Highlighted Portions	Anthony Levandowski (Yellow)
Exhibits 2-3 to the Declaration of Arturo Gonzalez	Entire document	Anthony Levandowski

3. Exhibit 1 to the Declaration of Arturo Gonzalez is an email thread dated September 21, 2017, among various attorneys in the above-captioned litigation. The top email contains two sentences highlighted in yellow. The first yellow-highlighted sentence, following the names "Ratner, Gruver, Linaval, and M. Levandowski," references the contents of the Stroz report, which Mr. Levandowski has asserted and continues to assert is protected from disclosure under his Fifth Amendment privilege against self-incrimination under *Fisher v. United States*, 425 U.S. 391 (1975), and *United States v. Sideman & Bancroft, LLP*, 704 F.3d 1197 (9th Cir. 2013), as well as by the common interest/joint defense, attorney-client and attorney work product privileges. *See, e.g.*, Non-Party Anthony Levandowski's Motion for Protective Order, filed on September 19, 2017, Dkt. No. 1682. We ask that the confidentiality of the first yellow-highlighted portion be maintained until Mr. Levandowski's Motion for Protective Order is resolved.

4. Mr. Levandowski does not assert that the second yellow-highlighted portion of Exhibit 1 merits sealing.

5. Exhibit 2 to the Declaration of Arturo Gonzalez is an email thread dated April 4, 2016, among Stroz employees and various attorneys involved in the Uber/Ottomotto transaction including attorneys at Uber, O'Melveny and Meyers, Morrison and Foerster, and Mr. Levandowski's attorney, John Gardner. Although the Administrative Motion seeks an order

1 declaring the entirety of Exhibit 2 under seal, Mr. Levandowski asserts that only the following
2 portions of Exhibit 2 merit sealing:

- 3 • On page 2, the contents of the email from Mary Fulginiti, with the time stamp:
4 Monday, April 04, 2016 3:52 PM;
- 5 • On page 2, the contents of the email from Eric Akira Tate, with the time stamp:
6 Monday, April 04, 2016 3:43 PM;
- 7 • On page 3, the contents of the email from Eric Akira Tate, with the time stamp:
8 Monday, April 04, 2016 3:32 PM;
- 9 • On page 4, the contents of the email from John Gardner, with the time stamp:
10 Monday, April 04, 2016 3:23 PM;
- 11 • On page 4, the contents of the email from Mary Fulginiti, with the time stamp:
12 Monday, April 04, 2016 3:19 PM;
- 13 • On page 5, the contents of the mail from Eric Akira Tate, with the time stamp:
14 Monday, April 04, 2016 3:05 PM;
- 15 • On page 5, the contents of the email from Mary Fulginiti, with the time stamp:
16 Monday, April 04, 2016 2:29 PM;
- 17 • On page 6, the contents of the email from Mary Fulginiti, with the time stamp:
18 Monday, April 04, 2016 2:23 PM;
- 19 • On page 6, the contents of the email from Anna Ferrari, with the time stamp:
20 Monday, April 04, 2016 12:44 PM;
- 21 • On page 7, the contents of the email from Anna Ferrari, with the time stamp:
22 Monday April 04, 2016 9:37 AM

23 The contents of these emails reference – directly or indirectly – the contents of the Stroz
24 report; for the reasons discussed in paragraph three above, we request that the confidentiality of
25 these emails be maintained until Mr. Levandowski’s Motion for Protective Order is resolved.
26 Mr. Levandowski does not assert that the remainder of Exhibit 2 merits sealing.

27 6. Exhibit 3 to the Declaration of Arturo Gonzalez is an email thread dated April 11,
28 2016, among Stroz employees, Uber employees, and various attorneys involved in the

Uber/Ottomotto transaction, including attorneys at Uber, O'Melveny and Meyers, Morrison and Foerster, and Mr. Levandowski's attorney, John Gardner. Certain portions of Exhibit 3 have been redacted. Although the Administrative Motion seeks an order declaring the entirety of Exhibit 3 under seal, Mr. Levandowski asserts that only the following portions of Exhibit 3 merit sealing:

- On page 4, the contents of the email from Mary Fulginiti, with the time stamp:
Monday, April 11, 2016 at 1:50 PM;
- On page 7, the contents of the email from John Gardner, with the time stamp:
4/11/2016 9:36 AM;
- On page 7, the contents of the email from Anna Ferrari, with the time stamp:
Monday, April 11, 2016 9:15 AM

The contents of these emails reference – directly or indirectly – the contents of the Stroz report; for the reasons discussed in paragraph three above, we request that the confidentiality of these emails be maintained until Mr. Levandowski's Motion for Protective Order is resolved. Mr. Levandowski does not assert that the remainder of Exhibit 3 merits sealing.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct, and that this declaration was executed in Berkeley, California, on September 28, 2017.

Date: September 28, 2017

Respectfully submitted,

/s/ Miles Ehrlich

Miles Ehrlich
Ramsey & Ehrlich LLP

*Counsel for Non-Party Anthony
Levandowski*